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14 Attorneys for Plaintiff,
15 Douglas Baker

16 IN THE UNITED STATES DISTRICT COURT
17 FOR THE DISTRICT OF ARIZONA

18 Douglas Baker,

19 Plaintiff,

20 vs.

21 Caribbean Cruise Line, Inc. ; and DOES
22 1-10, inclusive,

23 Defendants.

Case No.:

COMPLAINT

JURY TRIAL DEMANDED

1 For this Complaint, the Plaintiff, Douglas Baker, by undersigned counsel, states
2 as follows:
3

4 **JURISDICTION**

5 1. This action arises out of Defendants' repeated violations of the
6 Telephone Consumer Protection Act, 47 U.S.C. § 227, *et. seq.* (the "TCPA").
7

8 2. Supplemental jurisdiction exists pursuant to 28 U.S.C. § 1367.

9 3. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b), in that
10 Defendants transact business here, Plaintiff resides in this judicial district, and a
11 substantial portion of the acts giving rise to this action occurred here.
12

13 **PARTIES**

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15 4. The Plaintiff, Douglas Baker (hereafter "Plaintiff"), is an adult individual
16 residing at 1217 Ranch Road, Taylor, Arizona 85939, and is a "person" as defined by
17 47 U.S.C. § 153(10).
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19 5. The Defendant, Caribbean Cruise Line, Inc. (hereafter "Caribbean"), is a
20 company with an address of 2419 East Commercial Boulevard, Suite 100, Ft.
21 Lauderdale, Florida 33308, and is a "person" as defined by 47 U.S.C. § 153(10).
22

23 6. Does 1-10 (the "Collectors") are individual employees and/or agents employed
24 by Caribbean and whose identities are currently unknown to the Plaintiff. One or
25 more of the Agents may be joined as parties once their identities are disclosed through
26 discovery.
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28

1 7. Caribbean at all times acted by and through one or more of the Agents.

2 **FACTS**

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4 8. Within the last four years, Caribbean placed calls to Plaintiff's cellular
5 telephone at XXX-XXX-5232.

6 9. At all times referenced herein, Caribbean placed calls to Plaintiff's cellular
7 telephone in an attempt to solicit its products and services to Plaintiff.

8
9 10. Caribbean placed calls to Plaintiff's cellular telephone by using an automated
10 telephone dialer system ("ATDS") and/or by using an artificial or prerecorded voice.

11
12 11. When Plaintiff answered the calls from Caribbean, he heard a prerecorded
13 message delivered by Caribbean.

14
15 12. Plaintiff never provided his cellular telephone number to Caribbean.

16 13. Plaintiff never provided his consent to Caribbean to be contacted on his cellular
17 telephone.

18
19 14. Plaintiff has no prior business relations with Caribbean and never requested by
20 an agreement or otherwise that Caribbean contact him.

21 15. The telephone number called by Caribbean was assigned to a cellular telephone
22 service for which Plaintiff incurs charges for incoming calls pursuant to 47 U.S.C. §
23 227(b)(1).

24
25 16. The calls from Caribbean to Plaintiff were not placed for "emergency purposes"
26 as defined by 47 U.S.C. § 227(b)(1)(A)(i).
27
28

COUNT I
VIOLATIONS OF THE TELEPHONE CONSUMER PROTECTION ACT –

47 U.S.C. § 227, et seq.

17. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

18. Without prior consent, the Defendants contacted the Plaintiff by means of automatic telephone calls or prerecorded messages at a cellular telephone or pager in violation of 47 U.S.C. § 227(b)(1)(A)(iii).

19. Caribbean placed calls to Plaintiff's cellular telephone using a prerecorded voice, knowing that it lacked consent to call his number. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA and is subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

20. As a result of each call made in negligent violation of the TCPA, Plaintiff is entitled to an award of \$500.00 in statutory damages for each call in violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

21. As a result of each call made in knowing and/or willful violation of the TCPA, Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each call pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

COUNT II

INVASION OF PRIVACY BY INTRUSION UPON SECLUSION

22. The Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

23. The Restatement of Torts, Second, § 652(b) defines intrusion upon seclusion as, “One who intentionally intrudes...upon the solitude or seclusion of another, or his private affairs or concerns, is subject to liability to the other for invasion of privacy, if the intrusion would be highly offensive to a reasonable person.”

24. Arizona further recognizes the Plaintiff’s right to be free from invasions of privacy, thus Defendant violated Arizona state law.

25. The Defendant intentionally intruded upon Plaintiff’s right to privacy by continually harassing the Plaintiff the above referenced telephone calls.

26. The telephone calls made by Defendants to the Plaintiff were so persistent and repeated with such frequency as to be considered, “hounding the plaintiff,” and, “a substantial burden to her existence,” thus satisfying the Restatement of Torts, Second, § 652(b) requirement for an invasion of privacy.

27. The conduct of the Defendants in engaging in the illegal collection activities resulted in multiple invasions of privacy in such a way as would be considered highly offensive to a reasonable person.

28. As a result of the intrusions and invasions, the Plaintiff is entitled to actual damages in an amount to be determined at trial from Defendants.

29. All acts of Defendants and its agents were committed with malice, intent, wantonness, and recklessness, and as such, Defendants are subject to punitive damages.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that judgment be entered against the Defendants:

- A. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
- B. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C);
- C. Actual damages from the Defendants for all damages, including intentional, reckless, and/or negligent invasions of privacy in an amount to be determined at trial;
- D. Punitive damages; and
- E. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

1 DATED: October 10, 2013

LEMBERG & ASSOCIATES, LLC

2 By: /s/ Trinette G. Kent

3 Trinette G. Kent

4 Attorney for Plaintiff,
5 Douglas Baker

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